



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 7, 1997

Ms. Linda Wiegman  
Supervising Attorney  
Office of General Counsel  
Texas Department of Health  
1100 West 49th Street  
Austin, Texas 78756-3199

OR97-0504

Dear Ms. Wiegman:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 104690.

The Texas Department of Health (the "department") received a request for information pertaining to an investigation of an allegation of abuse of a person with a mental disability. You assert that certain requested documents are excepted from required public disclosure pursuant to section 552.101 of the Government Code.

Section 552.101 excepts from disclosure information that is confidential by law, either constitutional, statutory, or by judicial decision. This section encompasses information protected by other statutes. Chapter 48 of the Human Resources Code sets out guidelines for the investigation of abuse, exploitation, or neglect of an elderly or disabled person. Hum. Res. Code § 48.001. Section 48.101(a) provides that a report of abuse, neglect, or exploitation, the identity of the person making the report, and all files, reports, records, communications, and working papers used or developed in an investigation under chapter 48 are confidential.

The submitted documents appear to be "files, reports, records, communications, and working papers" used or developed in an investigation of alleged abuse. However, we note that section 48.101(d) provides:

The department by rule shall provide for the release on request to a person who is the subject of a report of abuse, neglect, or exploitation or to that person's legal representative of otherwise confidential information relating to that report. The department shall edit the information before release to protect the confidentiality of information relating to the reporter's identity and to protect any other individual whose safety or welfare may be endangered by disclosure.

The requestor is the accused. You cite no department rule which "provide[s] for the release on request to a person who is the subject of a report of abuse, neglect, or exploitation . . . of otherwise confidential information relating to that report." However, we note that 25 Texas Administrative Code § 404.15(b)(3) provides that the accused shall be informed of the outcome of the investigation and that, if disciplinary action is taken, documentary evidence will be provided to the employee as outlined in 25 Texas Administrative Code § 404.10(4). As it appears that no disciplinary action was taken with regard to this report, the requestor need only be informed of the outcome of the investigation. Otherwise, we conclude that section 552.101 of the Government Code in conjunction with section 48.101(a) of the Human Resources Code excepts the requested information from required public disclosure.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch  
Assistant Attorney General  
Open Records Division

VDP/rho

Ref.: ID# 104690

Enclosures: Submitted documents

cc: Mr. R. D. Radosta  
2432 S. Westmoreland Road  
Red Oak, Texas 75154  
(w/o enclosures)